

《法学专业英语教程（第三版.下）》

图书基本信息

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前言

《法学专业英语教程》是一套专供具有大学英语四级水平的法律专业学生使用的英语教材。它较全面系统地介绍美国民商法的基本情况，又提供了案例阅读，形成了一套精泛读相结合、配有各种口头笔头练习的易于操作的全新的法学英语学习体系。使用本教材的学生在循序渐进提高英语水平的同时，可了解美国法律的概貌，掌握各种法律概念的英语表述。正因为此，它自1999年问世以来颇受广大师生的好评。2007年首次修订，更新了部分内容。然而，在过去的五年中，技术发展突飞猛进，经济跌宕起伏变幻莫测，社会变革的深度和广度前所未有，这些变化必然也带动了法律的发展。为使这套教材在内容上紧跟美国法律发展的脚步，出版社提议再次修订，编者本着对使用者负责的态度，欣然接受了这一任务。本次修订的重点是案例阅读部分。旧版的案例大多在内容上紧扣课文，扩充和诠释了课文内容，但其中一些案例年代久远，对学生的吸引力不大。本次修订，保留了原版的经典案件，但作了删节，使之更简练。同时又增添了不少近五年的新案例，使21世纪以来的案例达到三分之一以上。新增的案例，有涉及轰动全美的“庞氏骗局”的刑事案United States v. Madoff, 诠释萨班斯-奥克斯利保护告密者条例的案例Tides v. The Boeing Company, 权衡无过错产品质量索赔和保护新兴产业之间的利弊的Russell Bruesewitz v. Wyeth //C, 界定和区分不可申请专利的科学发现和可申请专利的技术成果的Mayo Collaborative Services v. Prometheus Laboratories, Inc等。新选的案例不少涉及电信、生物技术等新兴产业和金融保险等当今的热门行业，案例的当事方有不少是学生熟悉的跨国公司，这样必然会增加学生阅读案例的兴趣。更重要的是，案件解决的争议也是我国当今法律界面临的问题，判决意见书多数出自联邦最高法院的法官，他们透彻的分析，也将开阔学生的视野和思路，可以帮助他们为日后从事法律工作打下更为扎实的基础。由于课文是介绍经久不变的法律基本原则的，除最后一章公司法有新添内容外，其他改动较少。课文的注解和案例阅读中的问题及答案，这次也作了不少修改，使表达更加简练明晰。.....

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章节摘录

Since the United States began operations in May, 1942, its four-motored heavy bombers, other planes of the heavier type, and its fighter planes have frequently passed over respondents' land and buildings in considerable numbers and rather close together. They come close enough at times to appear barely to miss the tops of the trees and at times so close to the tops of the trees as to blow the old leaves off. The noise is startling. As a result of the noise, respondents had to give up their chicken business. As many as six to ten of their chickens were killed in one day by flying into the walls from fright. The total chickens lost in that manner was about 150. Production also fell off. The result was the destruction of the use of the property as a commercial chicken farm. Respondents are frequently deprived of their sleep and the family has become nervous and frightened. ... These are the essential facts found by the Court of Claims. On the basis of these facts, it found that respondents' property had depreciated in value. It held that the United States had taken an easement over the property on June 1, 1942, and that the value of the property destroyed and the easement taken was \$2,000* ... It is an ancient doctrine that at common law ownership of the land extended to the periphery of the universe.*. But that doctrine has no place in the modern world. The air is a public highway, as Congress has declared. Were that not true, every transcontinental flight would subject the operator to countless trespass suits. Common sense revolts at the idea. To recognize such private claims to the airspace would clog these highways, seriously interfere with their control and development in the public interest, and transfer into private ownership that to which only the public has a just claim. We have said that the airspace is a public highway. Yet it is obvious that if the landowner is to have full enjoyment of the land, he must have exclusive control of the immediate reaches of the enveloping atmosphere. Otherwise buildings could not be erected, trees could not be planted, and even fences could not be run. The principle is recognized when the law gives a remedy in case overhanging structures are erected on adjoining land. The landowner owns at least as much of the space above the ground as he can occupy or use in connection with the land. The fact that he does not occupy it in a physical sense-by the erection of buildings and the like-is not material. As we have said, the flight of airplanes, which skim the surface but do not touch it, is as much an appropriation of the use of the land as a more conventional entry upon it. We would not doubt that if the United States erected an elevated railway over respondents' land at the precise altitude where its planes now fly, there would be a partial taking, even though none of the supports of the structure rested on the land. The reason is that there would be an intrusion so immediate and direct as to subtract from the owner's full enjoyment of the property and to limit his exploitation of it.

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